IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Second Appeal No. 55 of 2006

Smt. Radha Saxena
W/o Late Sri Parmatma Charan Saxena
R/o 485 Khurbura Mohalla
Dehradun ..... Appellant

Vs

1. Balika Shiksha Sadan Kanya Vidyalaya
   Dehradun registered Society Registered
   Under Society Registration Act
   Through its Manager Sh. Om. Prakash
2. Smt. Meenakshi Asthna
   R/o 38/133 Beenagudi Cantt.
   District Jalpaguri West Bengal
3. Smt. Anupma D/o Sri Parmatma Charan Saxdena
   W/o Shri Sunit Saria
   R/o B-73 Sector 27 Noida
4. Sri Ashish Kumar Saxena
   S/o Sri Parmatma Charan Saxena
   R/o 185 Khurbura Mohalla
   Dehradun
5. Sri Naveen Saxena
   S/o Late Sri Parmatma Charan Saxena
   R/o 185 Khurbura Mohalla
   Dehradun
6. Sri Sanjay Saxena
   S/o Late Sri Parmatma Charan Saxena
   R/o 485 Khurbjura Mohalla
   Dehradun ..... Respondents

Sri Arvind Vashisth, learned counsel for the appellant
Sri R.P. Nautiyal, learned counsel for the respondents

Hon'ble B.C. Kandpal, J.

This appeal arises out against the judgment and decree dated 31.05.2006 passed by the Additional District Judge /F.T.C. - VI, Dehradun in Civil Appeal No. 8 of 2004 Smt. Radha Saxena Vs Balika Shiksha Sadan & others thereby dismissing the appeal arising out against the judgment and decree dated 12.02.2004 passed by Civil Judge (J.D.), Dehradun in Original Suit No. 197 of 1970, Balika Shiksha Sadan Vs Sri Parmatma Charan Saxena.

2. Brief facts of the case are that a suit was filed by the plaintiff/respondent for the ejectment for the property in question and damages. The trial court after assessing all the evidence dismissed the suit.

3. The appellant/defendant preferred the first appeal and the same was also dismissed vide judgment and order dated 31.05.2006.

4. Feeling aggrieved by the aforesaid both the judgments and decree, this second appeal has been preferred before this Court.

5. Heard Sri Arvind Vashisth, learned counsel for the appellant, Sri R.P. Nautiyal, learned counsel for the respondents and perused the record.

6. The trial court has touched all the factual aspects and thereafter dismissed the suit. The appellant confined his argument only on the point of adverse possession before the appellate court and the appellate court also after discussing the entire evidence decided the appeal against the appellant with the result, the appeal was also dismissed.

7. Learned counsel for the appellant has also argued that in fact all the points were raised before the appellate court but the appellate court has decided the appeal only on one point of adverse possession.

8. I fail to appreciate the argument advanced by the learned counsel for the appellant because the judgment and decree passed by the lower appellate court itself indicates that

the appellant confined the argument only on the point of adverse possession.

9. Having considered the concurrent findings recorded by both the courts below, I am of the view that this second appeal dose not bear any force. Moreover no substantial question of law is involved in this appeal.

10. Thus the appeal lacks merit and is liable to be dismissed.

11. Accordingly, the appeal is dismissed.

(B.C. Kandpal, J.)

06.09.2006
ASWAL